

## **REMARKS**

### **I. Status of Application**

The present application includes pending claims 26, 29, 30, 67, 70-72, 74, 75, 82, and 91, which were all rejected in the Examiner's Final Office Action mailed on November 14, 2005. By this response, claims 26, 30, 67, 71, and 82 are cancelled without prejudice or disclaimer; claims 29, 70, 72, 74, 75, and 91 are amended to correct matters of form or grammar and/or to more particularly point out the invention for which protection is sought; and claims 93-103 have been added.

Claims 29, 70, 72, 74, 75, 91, 101, and 103 are independent claims in the present application.

### **II. Discussion**

#### **A. Response to Rejection of Claims 29, 70, 74, and 91.**

Applicant respectfully traverses the Examiner's rejection of claims 29, 70, 74, and 91 under 35 U.S.C. § 102(b) as being anticipated by Carr (WO 89/10302).

#### **1. Carr Does Not Show or Suggest a Joint Supporting an Energy Absorber at a Predetermined Angle Relative to Ground Level.**

The Final Office Action of November 14, 2005, contains the following statement:

“Carr discloses an energy absorbing system comprising ... a joint (seen as line 10) mechanically coupled to the energy absorber....”

(Nov. 14, 2005 Final Office Action, ¶3). Applicant submits that Carr does not disclose a joint supporting an energy absorber at a predetermined angle relative to ground level, as recited in amended independent claims 29, 70, 75, and 91, and new independent claim 103.

In particular, Carr teaches net 1 attached at each side to restraining devices 7. Each restraining device 7 comprises a length of tear-able textile webbing 8 folded into bag 9 except for two protruding ends 10 and 11, which are connected to ground anchor 12 and net 1, respectively. (Carr, p. 2, ln. 6-10, and Fig. 1). Protruding end 10 appears to be connected at a looped end to a D-ring fitted around ground anchor 12 in manner similar to that described with respect to breakaways 5. (Carr, p. 2, ln. 25-27, and Fig. 1). Figure 1 of Carr shows restraining device 7 arranged on the ground and not supported by protruding end 10 at a predetermined angle relative to ground level. Therefore, applicant submits that Carr does not disclose a joint supporting an energy absorber at a predetermined angle relative to ground level, as recited in amended independent claims 29, 70, 75, and 91, and new independent claim 103.

## **2. Carr Does Not Show or Suggest Tensioning Upper and Lower Portions of the Net.**

In the Final Office Action of November 14, 2005, the Examiner rejected claim 74 as being anticipated by Carr. Applicant submits that Carr does not disclose tensioning upper and lower portions of the net, as recited in amended independent claim 74.

Carr teaches using deployment cord 4 in conjunction with jamming cleat 6 to raise and lower net 1. (Carr, p. 2, ln. 4-6, and Fig. 1). The lower end of net 1 is attached to restraining device 7, which does not have any disclosed tensioning properties. (Carr, p. 2, ln.

6-7, and Fig. 1). Therefore, applicant submits that Carr does not disclose tensioning upper and lower portions of the net, as recited in amended independent claim 74.

**B. Response to Prior Rejection of Claims 28 and 69, as Applied to New Claim 94.**

Applicant respectfully traverses the Examiner's previous rejection of claims 28 and 69 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,312,188 to Ousterhout et al. ("Ousterhout") to the extent the limitations of previously cancelled claims 28 and 69 now appear in new claim 94.

The Office Action of April 29, 2005, contains the following statement:

"Regarding claim 28, such a stop plate as recited can be viewed as the governor (78) in Fig. 13."

(Apr. 29, 2005 Office Action, ¶5). Applicant submits that Ousterhout does not disclose a stop plate preventing the joint from pivoting at a predetermined angle relative to ground level, as recited in new dependent claim 94. Ousterhout discloses governor 78 that determines the rate of deceleration of a vehicle by varying the friction between first metal plate 70 and friction plate 76. (Ousterhout, col. 8, ln. 8-13, and Fig. 13). Governor 78 controls the rotation rate of metal plate 70, thereby controlling the rate at which deceleration cable 22 is unwound from metal plate 70 and controlling the braking action of the system. (Ousterhout, col. 7, ln. 65 – col. 8, ln. 7, and Fig. 13). Therefore, applicant submits that Ousterhout does not disclose a stop plate preventing the joint from pivoting beyond a predetermined angle relative to ground level, as recited in new dependent claim 94.

### **C. Response to Rejection of Claim 72.**

Applicant respectfully traverses the Examiner's rejection of claim 72 under 35 U.S.C. § 103(b) as being unpatentable over Carr in view of Ousterhout. Applicant submits that the combination of Carr and Ousterhout does not disclose mechanically coupling upper and lower portions of the net to a support via frangible connectors that are tensioned, as recited in amended independent claim 72.

Carr teaches using deployment cord 4 in conjunction with jamming cleat 6 to raise and lower net 1. (Carr, p. 2, ln. 4-6, and Fig. 1). Carr further teaches the lower end of net 1 is attached to restraining device 7, which does not have any disclosed tensioning properties. (Carr, p. 2, ln. 6-7, and Fig. 1). Therefore, Carr does not show or suggest tensioning the upper and lower portions of the net.

Ousterhout teaches using low-strength breakaway cords 121 to fasten the barrier to the telescoping supports so that raising the supports also raises the barrier. (Ousterhout, col. 7, ln. 9-12, and col. 9, ln. 11-19). Therefore, Ousterhout does not show or suggest tensioning the upper and lower portions of the barrier.

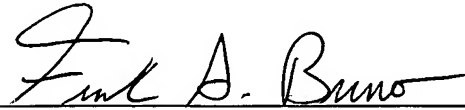
For these reasons then, applicant submits that the combination of Carr and Ousterhout does not disclose mechanically coupling upper and lower portions of the net to a support via frangible connectors that are tensioned, as recited in amended independent claim 72.

### **III. Conclusion**

It is respectfully submitted that the present application is in condition for allowance and prompt notification thereof is requested. If the prosecution of this application

can be advanced by a telephone conference, the Examiner is requested to call the undersigned at (212) 530-5456.

Respectfully submitted,

A handwritten signature in cursive script, reading "Frank A. Bruno", written over a horizontal line.

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